

AMENDED IN SENATE JANUARY 24, 2017

SENATE BILL

No. 31

Introduced by Senator Lara

December 5, 2016

An act to add Section 8310.3 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 31, as amended, Lara. ~~State-California Religious Freedom Act:~~ *state agencies: disclosure of religious affiliation information.*

Existing law prohibits a state agency from including a question regarding an applicant's race, sex, marital status, or religion in any application form for employment.

This bill would prohibit a state *or local agency or a public employee acting under color of law* from providing or disclosing to the federal government *personally identifiable* information regarding a person's religious ~~affiliation~~ *beliefs, practices, or affiliation, as specified*, when the information is sought for compiling a database of individuals based ~~solely on religious affiliation~~ *belief, practice or affiliation, national origin, or ethnicity for law enforcement or immigration purposes. The bill would also prohibit a state agency from using agency resources to assist with any government program compiling such a database, or from making state databases available in connection with an investigation or enforcement under such a program. The bill would prohibit state and local law enforcement agencies from collecting personally identifiable information on the religious beliefs, practices, or affiliation of any individual, except as part of a targeted investigation, or where necessary to provide religious accommodations. The bill would also prohibit law enforcement agencies from using agency or department*

moneys, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any criminal, civil, or administrative violation, or warrant for a violation, of any requirement that individuals register with the federal government or any federal agency based on religion, national origin, or ethnicity. The bill would also terminate, to the extent of any conflict, any existing agreements that make any agency or department information or database available in conflict with these provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In California, we celebrate the rich cultural heritage and
4 diversity of our residents.

5 (b) Freedom of religion and protection from persecution on the
6 basis of religion ~~is one of the~~ *are* founding ideals of our nation.

7 (c) California must uphold the protection of religious freedom
8 enshrined in the United States Constitution for all of its people,
9 and the state has a moral obligation to protect its citizens from
10 religious persecution.

11 (d) Section 4 of Article I of the California Constitution
12 guarantees the free exercise and enjoyment of religion without
13 discrimination or preference.

14 SEC. 2. Section 8310.3 is added to the Government Code, to
15 read:

16 8310.3. ~~Notwithstanding~~ *(a) This section shall be known, and*
17 *may be cited, as the California Religious Freedom Act.*

18 *(b) Notwithstanding any other law, a state or local agency or*
19 *public employee acting under color of law shall not provide not:*

20 *(1) Provide or disclose to federal government authorities*
21 *personal personally identifiable information regarding the religious*
22 *beliefs, practices, or affiliation of any individual that is requested*
23 *for the purpose of compiling a list, registry, or database of*
24 *individuals based solely on religious affiliation, affiliation, national*
25 *origin, or ethnicity.*

26 *(2) Use agency money, facilities, property, equipment, or*
27 *personnel to assist in creation, implementation, or enforcement of*

1 any government program compiling a list, registry, or database
2 of personally identifiable information about individuals based on
3 religious belief, practice, or affiliation, or national origin or
4 ethnicity, for law enforcement or immigration purposes.

5 (3) Make personally identifiable information from agency
6 databases available, including any databases maintained by private
7 vendors contracting with the agency, to anyone or any entity for
8 the purpose of investigation or enforcement under any government
9 program compiling a list, registry, or database of individuals based
10 on religious belief, practice, or affiliation, or national origin or
11 ethnicity for law enforcement or immigration purposes.

12 (c) Notwithstanding any other law, state and local law
13 enforcement agencies shall not:

14 (1) Collect information on the religious belief, practice, or
15 affiliation of any individual except (A) as part of a targeted
16 investigation of an individual based on reasonable suspicion to
17 believe that individual has engaged in criminal activity, and when
18 there is a clear nexus between the criminal activity and the specific
19 information collected about religious belief, practice, or affiliation,
20 or (B) where necessary to provide religious accommodations.

21 (2) Use agency money, facilities, property, equipment, or
22 personnel to investigate, enforce, or assist in the investigation or
23 enforcement of any criminal, civil, or administrative violation, or
24 warrant for a violation, of any requirement that individuals register
25 with the federal government or any federal agency based on
26 religion, national origin, or ethnicity.

27 (d) Any agreements in existence on the operative date of this
28 section that make any agency or department information or
29 database available in conflict with the terms of this chapter are
30 terminated on that date to the extent of the conflict.

31 (e) Nothing in this section prohibits any state or local agency
32 from sending to, or receiving from, any local, state, or federal
33 agency, information regarding an individual's citizenship or
34 immigration status. "Information regarding an individual's
35 citizenship or immigration status, lawful or unlawful" for purposes
36 of this section, shall be interpreted consistent with Sections 1373
37 and 1644 of Title 8 of the United States Code.

38 (f) Nothing in this section is intended to prevent any state or
39 local agency from compiling aggregate nonpersonally identifiable
40 information about religious belief, practice, or affiliation, national

- 1 *origin or ethnicity or from exchanging it with other local, state,*
- 2 *or federal agencies.*

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